

GOVERNMENT'S RESPONSE TO DEFENDANT'S
OBJECTIONS TO PRESENTENCE REPORT

U.S. v. Joshua Joel Pratchard

CR 18-01256-TUC-CKJ (JR)

EXHIBIT 1



DUPLICATE ORIGINAL
DEPARTMENT OF THE NAVY
NAVY AND MARINE CORPS APPELLATE LEAVE ACTIVITY
716 SICARD STREET SE ROOM 46
WASHINGTON NAVY YARD DC 20374-5083

IN REPLY REFER TO:

OCT 12 2005

GENERAL COURT-MARTIAL SUPPLEMENTAL ORDER NO. 05-1907

In the general court-martial case of Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, 546 75 5938, the approved sentence to confinement for three years, forfeiture of all pay and allowances, reduction to pay grade E-1, and a bad-conduct discharge, as partially suspended and promulgated in Commanding General, 3d Marine Aircraft Wing, Marine Forces Pacific, Marine Corps Air Station Miramar, San Diego, CA, Wing General Court-Martial Order No. 11-02, dated 3 December 2002, has been affirmed in NMCCA No. 200301258.

In accordance with the President, Naval Clemency and Parole Board decision letter dated 13 February 2003, no clemency was granted.

Article 71(c), UCMJ having been complied with, the bad-conduct discharge will be executed.

M. E. BROOKS
Commander, U.S. Navy
Commanding Officer

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IN REPLY REFER TO:
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WING GENERAL COURT-MARTIAL)
ORDER NUMBER 11-02)

On 6 March 2002, Lance Corporal Joshua J. Pratchard 546 75 5938/6060 U.S. Marine Corps, was arraigned and tried on 20 March 2002 and 9 April 2002, at Marine Corps Air Station Miramar, San Diego, California, on the following offenses at a general court-martial convened by this command:

Charge I: Violation of the UCMJ, Article 112a.
Plea: Guilty. Finding: Guilty.

Specification 1: In that Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, on active duty, did, at unknown locations, on divers occasions, on at least 13 different occasions, between about 1 June 2001 to 31 July 2001, wrongfully use 3, 4-Methylenedioxymethamphetamine(ecstasy), a Schedule I controlled substance.

Plea: Guilty; except for the words "on at least 13 different occasion," substituting therefor the words "on at least five occasions," to the excepted words, Not Guilty; to the substituted words, Guilty; to Specification 1 as excepted and substituted Guilty. Finding: Guilty; except for the language "At unknown locations" and except for the language "on at least 13 different occasions," substituting the language "in San Diego, Los Angeles, and San Bernardino Counties, California, on at least 5 occasions," to the excepted language, Not Guilty; to the substituted language, Guilty; to the Specification as excepted and substituted, Guilty.

Specification 2: In that Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, on active duty, did, at or near San Diego, California, on or about 24 August 2001, wrongfully distribute 15 tablets containing some amount of 3, 4-Methylenedioxymethamphetamine(ecstasy), a Schedule I controlled substance, to Lance Corporal Cameron J. Polewski, U.S. Marine Corps.

Plea: Guilty. Finding: Guilty.

 WING GENERAL COURT-MARTIAL ORDER NUMBER 11-02 (CONTINUED)

Specification 3: In that Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, on active duty, did, at an unknown location, between on or about 1 June 2001 to 4 October 2001, wrongfully use Marijuana, a Schedule I controlled substance.

Plea: Not Guilty. Finding: Withdrawn and Dismissed with Prejudice.

Specification 4: In that Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, on active duty, did, at unknown locations, on at least 12 different occasions, between about 1 June to 31 July 2001, wrongfully distribute some amount of 3, 4-Methylenedioxymethamphetamine(ecstasy), a Schedule I controlled substance, to Lance Corporal Trevis Thomson, U.S. Marine Corps.

Plea: Guilty; except for the words "on at least 12 different occasions," substituting therefor the words "on at least three occasions," to the excepted words, Not Guilty; to the substituted words, Guilty; to Specification 4 as excepted and substituted, Guilty. Finding: Guilty; except for the language "at unknown locations on, at least 12 different occasions," substituting the language "in San Bernardino and Los Angeles Counties, California, on at least 3 occasions," to the excepted language, Not Guilty; to the substituted language, Guilty; to the Specification as excepted and substituted, Guilty.

Specification 5: In that Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, on active duty, did, at unknown locations, on at least 5 different occasions, between about 1 June to 31 July 2001, wrongfully distribute some amount of 3, 4-Methylenedioxymethamphetamine(ecstasy), a Schedule I controlled substance, to Lance Corporal Brandon E. Oakes, U.S. Marine Corps.

Plea: Guilty; except for the words "on at least 5 different occasions," substituting therefor the words "on at least 2 occasions," to the excepted words, Not Guilty; to the substituted words, Guilty; to Specification 5 as excepted and substituted, Guilty. Finding: Guilty; except for the language "at unknown locations on at least 5 different occasions," substituting the language "in San Bernardino and Los Angeles Counties, California, on at least 2 occasions," to the excepted language, Not Guilty; to the substituted language, Guilty; to the Specification as excepted and substituted, Guilty.

WING GENERAL COURT-MARTIAL ORDER NUMBER 11-02 (CONTINUED)

Specification 6: In that Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, on active duty, did, at unknown locations, on at least 18 different occasions, between about 1 June 2001 to 24 August 2001, wrongfully possess 3, 4-Methylenedioxymethamphetamine(ecstasy), a Schedule I controlled substance, with the intent to distribute the said controlled substance.

Plea: Not Guilty. Finding: Withdrawn and Dismissed with Prejudice.

Charge II: Violation of the UCMJ, Article 128.

Plea: Not Guilty. Finding: Withdrawn and Dismissed with Prejudice.

Specification 1: In that Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, on active duty, did, on board Marine Corps Air Station Miramar, San Diego, California, on or about 28 September 2001, wrongfully assault Lance Corporal Cameron J. Polewski, U.S. Marine Corps, by grabbing the back of Lance Corporal Polewski's T-shirt, and pulling him down the catwalk between buildings 5697 and 5698.

Plea: Not Guilty. Finding: Withdrawn and Dismissed with Prejudice.

Specification 2: In that Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, on active duty, did, on board Marine Corps Air Station Miramar, San Diego, California, on or about 28 September 2001, wrongfully assault Lance Corporal Cameron J. Polewski, U.S. Marine Corps, by lunging at the said Lance Corporal Polewski.

Plea: Not Guilty. Finding: Withdrawn and Dismissed with Prejudice.

WING GENERAL COURT-MARTIAL ORDER NUMBER 11-02 (CONTINUED)

Charge III: Violation of the UCMJ, Article 134.

Plea: Not Guilty. Finding: Withdrawn and Dismissed with Prejudice.

Specification: In that Lance Corporal Joshua J. Pratchard, U.S. Marine Corps, on active duty, did, on board Marine Corps Air Station Miramar, San Diego, California, on or about 28 September 2001, wrongfully endeavor to influence the testimony of Lance Corporal Cameron J. Polewski, U.S. Marine Corps, in an official investigation, by demanding that Lance Corporal Polewski tell him everything concerning the investigation and requesting that if he made a statement, to back him up, or words to that effect. Plea: Not Guilty. Finding: Withdrawn and Dismissed with Prejudice.

SENTENCE

On 9 April 2002, the military judge sentenced the accused to be confined for three years, to forfeit all pay and allowances, to be reduced to pay grade E-1, and to be discharged from the United States Marine Corps with a bad conduct discharge.

ACTION

In the Special Court-Martial U.S. v. Lance Corporal Joshua J. Pratchard 546 75 5938/6060 U.S. Marine Corps, the sentence is approved and, except for that part of the sentence extending to a bad conduct discharge, will be executed. Execution of that part of the sentence adjudging confinement in excess of 30 months is suspended for six months from the date the sentence is announced, at which time, unless the suspension is sooner vacated, the suspended part of the sentence will be remitted without further action.

The accused will be credited with having served 186 days pretrial confinement in accordance with the mandate of United States v. Allen, 17 M.J. 126 (C.M.A. 1984).

WING GENERAL COURT-MARTIAL ORDER NUMBER 11-02 (CONTINUED)

By this action, the deferment of all unexecuted confinement is hereby terminated.

I considered the results of trial, the record of trial, the pretrial agreement, the Staff Judge Advocate's recommendation, the matters submitted September 25, 2002 and October 4, 2002, the matters submitted by defense counsel dated 12 November 2002, and the Addendum to the Staff Judge Advocate's recommendation, prior to taking this action.

The record of trial is forwarded to the Judge Advocate General of the Navy for review by the United States Navy-Marine Corps Court of Criminal Appeals, under the provisions of the Uniform Code of Military Justice, Article 66.

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To: Commanding General, 3d Marine Aircraft Wing, Marine Forces Pacific

U N I T E D S T A T E S)	
)	
v.)	GENERAL COURT-MARTIAL
)	
)	Results of Trial
PRATCHARD, Joshua J.)	
546 75 5938)	Date: 9 April 2002
Lance Corporal)	
U.S. Marine Corps)	

1. The accused was tried on 9 April 2002 by military judge alone, Colonel R. C. Harris, with results as follows:

<u>Offense(s)</u>	<u>Pleas</u>	<u>Findings</u>
Charge I: Violation of the UCMJ, Art 112a	G	G
Spec 1: Wrongful use of ecstasy	G*	G*
Spec 2: Wrongful distribution of ecstasy	G	G
Spec 3: Wrongful use of marijuana	NG	WD
Spec 4: Wrongful distribution of ecstasy	G*	G*
Spec 5: Wrongful distribution of ecstasy	G*	G*
Spec 6: Wrongful possession of ecstasy	NG	WD
 Charge II: Violation of the UCMJ, Art 128	 NG	 WD
Spec 1: Assault	NG	WD
Spec 2: Assault	NG	WD
 Charge III: Violation of the UCMJ, Art 134	 NG	 WD
Spec: Wrongful endeavor to influence testimony in an official investigation	NG	WD

* The accused pled and was found guilty by exceptions and substitutions.

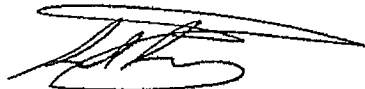
WD# 7058-02119

2. Sentence Adjudged: The accused was sentenced to be reduced to pay grade E-1; to forfeit all pay and allowances; to be confined for a period of three (3) years; and to be discharged from the United States Marine Corps with a bad-conduct discharge.

3. Pretrial Agreement: The accused agreed to submit a request for voluntary appellate leave within five (5) days of either (1) his release from confinement, or (2) the date of trial, whichever is later. The sentence may be approved as adjudged; however, all confinement in excess of thirty (30) months will be suspended for a period of six (6) months from the date the sentence is announced, at which time, unless sooner vacated, it will be remitted without further action. The agreement constitutes a request by the accused for, and approval by the convening authority of, deferment of the portion of any confinement to be suspended pursuant to the terms of this agreement. The period of deferment will run from the date of trial pursuant to this agreement until the date the convening authority acts on the sentence.

4. Pretrial Confinement: The accused was credited with one hundred eighty-six (186) days of pretrial confinement served.

5. Effective Date of Forfeitures; Effect of Automatic Forfeitures: Pursuant to Article 57, UCMJ, forfeiture of all pay and allowances and reduction to pay grade E-1 shall be effective 23 April 2002.



R. T. RIGAL
Captain, USMCR
Trial Counsel

Copy to:
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